

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
COMMUNICATIONS SECTION

IN RE APPLICATION OF	)	CC DOCKET NO. 94-136
	)	
ELLIS THOMPSON CORPORATION	)	File No. 14261-CL-P-134-A-86
	)	
For Facilities in the Domestic	)	
Public Cellular Radio	)	
Telecommunications Service on	)	DOCKET FILE COPY ORIGINAL
Frequency Block A in Market	)	
No. 134, Atlantic City, New Jersey	)	

To: Administrative Law Judge Joseph Chachkin

**OPPOSITION TO PETITION FOR LEAVE TO INTERVENE**

On February 6, 1995, an entity calling itself "Ameritel" filed a Petition for Leave to Intervene in the above-captioned proceeding. Pursuant to Section 1.294(a) of the Commission's Rules, American Cellular Network Corp. (hereinafter "Amcell") hereby opposes that Petition, which, for the following reasons, should be denied.

**I. Petitioner Lacks Standing to Intervene as a Matter of Right Pursuant to Section 1.223(a) of the Rules**

Section 1.223(a) of the Rules allows intervention as a matter of right for a "party in interest" to a proceeding, provided that the petition for intervention demonstrates the basis of the petitioner's interest. Petitioner asserts that it has standing to intervene as a matter of right, claiming to be the successor-in-interest to a corporation that is a mutually exclusive applicant for the Atlantic City MSA Block A cellular license that is the subject of this proceeding. Nowhere, however, does Petitioner offer any substantiation of this claim. In fact, the entire discussion of the matter is limited to the following two sentences buried in footnote 7 of the

*CHK*

Petition: "It should be noted that the petitioner herein, Ameritel, is an Ohio general partnership that is the successor in interest to Ameritel, Inc. For ease of reference throughout this pleading, Ameritel will be specified as the original applicant." It is peculiar, given that Petitioner's claim to party in interest status rests entirely on its showing that it is the successor to the original applicant, that it provides no facts in support of this critical assertion.

In fact, according to an official of the Office of Secretary of State of Ohio, there is no record of a general partnership under the name of Ameritel doing business in Ohio. Under Ohio law, all persons or entities transacting business in the state must, at the very least, file a fictitious name report with the Secretary of State. See Ohio Rev. Code Ann. § 1329.01 (Baldwin 1994).<sup>1/</sup> While an incorporated entity calling itself Ameritel, Inc. has done so, there is no record of any such filing for Petitioner.

According to the Ohio Secretary of State's Office: (i) on February 21, 1986, a company called Ameritel, Inc. filed its articles of incorporation with the state (This was apparently the entity referred to in the subject Petition as Petitioner's predecessor-in-interest.<sup>2/</sup>), and (ii) that corporation was merged into another entity, Metrotec, Inc., on June 15, 1988. It is not apparent what relationship, if any, Ameritel Inc. has with the Petitioner.

Petitioner thus fails to meet the requirement of Section 1.223(a) that a petition for intervention as a matter of right must demonstrate "the basis of [petitioner's] interest." The

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<sup>1/</sup> Attached hereto as Exhibit 1.

<sup>2/</sup> Curiously, Ameritel, Inc. apparently filed its Atlantic City cellular application on February 6, 1986, approximately two weeks before it came into existence. See Ameritel, Inc., Application for an Initial Cellular Authorization to Construct for the Daytona Beach, Florida MSA (FCC Form 401), File No. 22500-CL-P-146-A-86, Exhibit 1, Applicant's Ownership and Communications Interests (Attached hereto as Exhibit 2).

Commission's Rules contemplate a streamlined procedure for interlocutory motions.<sup>3/</sup> The burden is thus placed on the Petitioner to make a full and complete showing justifying its intervention and demonstrating compliance with Section 1.223(a), which Petitioner has failed to do. Therefore, Petitioner's request for intervention as a matter of right should be denied. Should, however, the Presiding Judge decide to afford Petitioner a further opportunity to substantiate its claim that it is the "successor" to Ameritel, Inc., Amcell respectfully requests that he require the Petitioner to supply the following:

- (1) a copy of its executed general partnership agreement<sup>4/</sup>, if any;
- (2) the identity and percentages of ownership of its general partners, supplied in the form of signed certificates from each general partner;
- (3) an explanation of whether, when and how Ameritel, Inc.'s interest in the Atlantic City MSA application was transferred to Petitioner, including any and all relevant documents;
- (4) the identity and ownership percentages of Ameritel, Inc.'s stockholders on the date that its Atlantic City application was transferred to Petitioner, if in fact it was so transferred;
- (5) a showing demonstrating the transfer's compliance with Section 22.944 of the Rules.<sup>5/</sup>

In the event of such a supplemental filing by Petitioner, Amcell requests the opportunity to respond within five (5) business days of the submission.

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<sup>3/</sup> See 47 C.F.R. § 1.294(b) (allowing only four days for the filing of oppositions to such requests, and disallowing replies).

<sup>4/</sup> See 47 C.F.R. § 22.108(d).

<sup>5/</sup> Section 22.944 prohibits the "transfer of any interest in any application for initial authorization to operate a cellular system," unless the transfer falls into one of several enumerated categories of permissible transfers. If the transfer did constitute a violation of Section 22.944, then any interest purportedly assigned to Petitioner would be void. This in turn would nullify any claim Petitioner has to party in interest status.

## **II. Petitioner Is Not Entitled to Discretionary Intervention Pursuant to Section 1.223(b) of the Rules**

In the alternative, Petitioner argues that it should be allowed to intervene pursuant to the discretionary authority specified in Section 1.223(b) of the Rules. However, Section 1.223(b) expressly requires that a petitioner seeking intervention: (1) "must set forth the interest of petitioner in the proceedings," and (2) "must show how such petitioner's participation will assist the Commission in the determination of the issues in question."<sup>6/</sup> The subject Petition is insufficient on both counts.

### **A. Petitioner Has Failed to Demonstrate that it Has an Interest in the Proceeding**

Aside from its conclusory assertion that it is the successor-in-interest to Ameritel, Inc., Petitioner is silent as to its interest in the proceeding. Thus, Petitioner's case for discretionary intervention is inextricably linked to its argument that it qualifies as a party in interest under Section 1.223(a). If Petitioner is not in fact a successor to Ameritel, Inc., the original applicant, or if its interest in the license is too attenuated, then Petitioner's request for intervention under Section 1.223(b) should also be denied.

### **B. Petitioner Has Failed to Demonstrate How its Participation will Assist the Commission in its Resolution of the Designated Issue**

Petitioner has also failed to meet the requirement of Section 1.223(b) that a petition for intervention must show, inter alia, how the petitioner's participation "will assist the Commission in the determination of the issues in question." As the Commission has stated:

Such showing would require that the intervenors raise substantial issues of law or fact which have not or would not otherwise be properly raised or argued; and that the issues be of sufficient import and immediacy to justify granting the

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<sup>6/</sup> 47 C.F.R. § 1.223(b).

intervenor the status of a party.<sup>7/</sup>

Other than to offer the Commission its assistance in "fully exploring the relationship between" the parties to this proceeding, Petitioner does not demonstrate that it will make any specific contribution to the Presiding Judge's resolution of the designated issue. Nowhere does Petitioner allege, much less show, that if it is not allowed to intervene, important issues of fact or law will not be adequately raised or argued. Indeed, it is unclear what information Petitioner could possibly possess concerning Ellis Thompson's control of the license that is not already a matter of public record, particularly in light of its failure, and that of its purported predecessor-in-interest, to file a single document with the Commission concerning Mr. Thompson's application during the nine years that it has been pending. In fact, the only connection that the Petitioner has with any of the parties to this proceeding is its tenuous claim that "Ameritel ultimately stands to benefit from a finding that Thompson is unqualified to be a Commission licensee."

Apparently, Petitioner believes its presence is required to ensure that the examination of Ellis Thompson's qualifications as a licensee in the hearing is sufficiently thorough. This, however, presumes that without the encouragement of Petitioner, the Wireless Bureau would be less than vigorous in its prosecution of this case. Amcell rejects this contention. Neither the Commission, nor the present parties require the services of a self-appointed watch-dog. Amcell is confident that, even without Petitioner's assistance, the designated issue will be fully and adequately explored. With Ellis Thompson's license at stake, the present parties have every incentive to ensure that a full and complete record is developed and the designated issue

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<sup>7/</sup> Victor Muscat, 31 FCC 2d 620, 621 (1971).

resolved.

### III. Conclusion

Throughout the nine years that the captioned application has been pending before the Commission, never before has there been a submission from Petitioner or its purported predecessor-in-interest. Now, with the subject application designated for hearing, with prehearing and hearing schedules already established, and discovery commenced, Petitioner seeks to step into the fray. Petitioner does not even attempt to explain why it could not have participated earlier; rather it simply alleges without any factual support that it is a "party in interest."<sup>8/</sup> The Presiding Judge should exercise his discretion to deny Petitioner's belated and

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<sup>8/</sup> Accepting, arguendo, that Petitioner is, in fact, the successor to Ameritel, Inc., if Ellis Thompson's application is denied and Petitioner is ultimately considered for the subject license, the record of Ameritel, Inc. before the Commission calls into question its real purpose in seeking intervention. In 1986, Ameritel, Inc. was the tentative selectee for the Block A license in the Daytona Beach, Florida MSA. Ameritel, Inc. found, however, that it had second thoughts about the viability of constructing a cellular system in Daytona Beach, and, rather than construct the system, it sold its authorization to Crowley Cellular Telecommunications (Daytona), L.L.P. In its Application for Consent to Assignment, Ameritel, Inc. reported to the Commission that:

Ameritel's Daytona Beach application gave rise to considerable litigation before the FCC. This litigation had the effect of substantially delaying the issuance of the Daytona Beach permit to Ameritel, and dramatically increasing the costs of securing the permit for constructing the Block A system. In view of these changed circumstances, Ameritel desires to assign its interest in the Daytona Beach Block A system. . . (Attached hereto as Exhibit 3)

If Ameritel, Inc. was deterred by the costs of litigation associated with pre-grant petitions in the Daytona Beach proceeding, it is unclear how Petitioner could expect to be able to afford the litigation that acquiring the Atlantic City license would entail. In addition to the costs of the present hearing, and appeals from it, Petitioner would have to fund several subsequent legal battles - each likely to be quite costly - as the qualifications of the 2nd, 3rd, and 4th ranked applicants and then finally its own are examined. Given its history in Daytona Beach and the low rank of its claimed application in Atlantic City,

defective attempt at involvement in this proceeding. To allow Petitioner's intervention now will accomplish nothing, and will cause unnecessary delay and disruption.

For the foregoing reasons, because Petitioner lacks standing to intervene in this proceeding, its Petition should be denied and the hearing should proceed pursuant to the established schedule.

Respectfully submitted,  
AMERICAN CELLULAR NETWORK CORP.

By: Louis Gurman  
Louis Gurman

By: William D. Freedman (BY)  
William D. Freedman

By: Doane Kiechel (BY)  
Doane Kiechel

By: Andrea S. Miano (BY)  
Andrea S. Miano

Gurman, Kurtis, Blask & Freedman, Chartered  
1400 16th Street, N.W., Suite 500  
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(202) 328-8200

Its Attorneys

February 15, 1995

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one must seriously question whether Petitioner is genuinely interested in constructing and operating a cellular system in Atlantic City or is simply being an opportunist.

Exhibit 1

Ohio Rev. Code Ann. §1329.01 (Baldwin 1994)

To be able to browse preceding or succeeding code sections, enter B. The first page of the document you are currently viewing will be displayed in FULL.

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LEVEL 1 - 17 OF 44 DOCUMENTS

BALDWIN'S OHIO REVISED CODE ANNOTATED;  
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TITLE XIII COMMERCIAL TRANSACTIONS  
CHAPTER 1329 LABELS AND MARKS  
SUBCHAPTER REGISTERED TRADE NAMES

ORC Ann. @ 1329.01 (BALDWIN)

@ 1329.01 Definitions; registration of trade name; reporting use of fictitious name

(A) As used in sections 1329.01 to 1329.10 of the Revised Code:

Press Alt-H for Help or .SO to End Session or Alt-Q to Quit Software.

ORC Ann. @ 1329.01 (BALDWIN)

(1) "Trade name" means a name used in business or trade to designate the business of the user and to which the user asserts a right to exclusive use.

(2) "Fictitious name" means a name used in business or trade that is fictitious and that the user has not registered or is not entitled to register as a trade name. It does not include the name of record of any domestic or foreign limited partnership that is formed under or registered pursuant to Chapter 1782. of the Revised Code.

(3) "Person" includes any individual, general partnership, limited partnership, corporation, association, professional association, limited liability company, society, foundation, federation, or organization formed under the laws of this state or any other state.

(B) Subject to sections 1329.01 to 1329.10 of the Revised Code, any person may register with the secretary of state, on a form prescribed by him, any trade name under which the person is operating, setting forth all of the following:

(1) The name and business address of the applicant for registration and any of the following that is applicable:

Press Alt-H for Help or .SO to End Session or Alt-Q to Quit Software.

ORC Ann. @ 1329.01 (BALDWIN)

(a) If the applicant is a general partnership, the names and residence addresses of all of the partners;

(b) If the applicant is a limited partnership, the name and residence address of the general partners;

(c) If the applicant is a corporation, professional association, limited

(2) The trade name to be registered;

(3) The general nature of the business conducted by the applicant;

(4) The length of time during which the trade name has been used by the applicant in his business operations in this state.

(C) The application shall be signed by the applicant or by a member or officer of the applicant.

A single trade name may be registered upon each application submitted under sections 1329.01 to 1329.10 of the Revised Code.

Press Alt-H for Help or .SO to End Session or Alt-Q to Quit Software.

ORC Ann. @ 1329.01 (BALDWIN)

The application shall be accompanied by a filing fee of twenty dollars, payable to the secretary of state.

(D) Any person who does business under a fictitious name and who has not registered and does not wish to register the fictitious name as a trade name or who cannot do so because the name is not available for registration shall report the use of the fictitious name to the secretary of state. The secretary of state shall prescribe the form for the report that shall include the name and address of the user; the nature of the business conducted; the exact form of the fictitious name used; if the user is a general partnership, the names and residence addresses of all the partners; and, if the user is a limited partnership, the name and residence address of the general partners. The secretary of state shall give information concerning the identity of the user to anyone who inquires concerning it

A report under this division shall be made within thirty days after the date of the first use of the fictitious name.

HISTORY: 1994 S 74, eff. 7-1-94 ; 1986 H 428, eff. 12-23-86; 1984 H 607; 1978 H 297; 1977 H 296; 127 v 222

Ed. Note: Former 1329.01 repealed by 127 v 222, eff. 10-1-57; 1953 H 1; GC  
Press Alt-H for Help or .SO to End Session or Alt-Q to Quit Software.

ORC Ann. @ 1329.01 (BALDWIN)

5240-11. Pre-1953 H 1 Amendments:116 v 232

Amendment Note: 1994 S 74 rewrote this section, which previously read:

"(A) As used in sections 1329.01 to 1329.10 of the Revised Code:

"(1) 'Trade name' means a name used in business or trade to designate the business of the user and to which the user asserts a right to exclusive use.

"(2) 'Fictitious name' means a name used in business or trade that is fictitious and that the user has not registered or is not entitled to register as a trade name. It includes the name of any domestic or foreign limited partnership that is formed under or subject to Chapter 1782. of the Revised Code.

"(3) 'Person' includes any individual, general partnership, limited partnership, corporation, association, society, foundation, federation, organization, or foreign corporation licensed to exercise its corporate powers in this state.

"(B) Subject to sections 1329.01 to 1329.10 of the Revised Code, any person may register with the secretary of state, on a form prescribed by him, any trade name under which such person is operating, setting forth:

"(1) The name and business address of the applicant for such registration; and, if the applicant is a general partnership, the names and residence addresses of all of the partners, if the applicant is a limited partnership, the name and residence address of the general partners and the name of the Ohio

registration as a foreign limited partnership is filed, and, if the applicant is a corporation, the state of its incorporation;

"(2) The trade name to be registered;

"(3) The general nature of the business conducted by the applicant;

"(4) The length of time during which the trade name has been used by the applicant in his business operations in this state.

"The application shall be signed by the applicant or by a member or officer of the applicant.

"A single trade name may be registered upon each application submitted under sections 1329.01 to 1329.10 of the Revised Code.

"The application shall be accompanied by a filing fee of twenty dollars, payable to the secretary of state.

"(C) Any person who does business under a fictitious name, and who has not registered and does not wish to register the fictitious name as a trade name or who cannot do so because the name is not available for registration, shall report the use of the fictitious name to the secretary of state. The secretary of state shall prescribe the form for the report, which shall include the name and address of the user, the nature of the business conducted, the exact form of the fictitious name used, and, if the user is a general partnership, the names and residence addresses of all the partners and, if the user is a limited partnership, the name and residence address of the general partners and the name of the Ohio county in which its certificate of limited partnership or Press Alt-H for Help or .SO to End Session or Alt-Q to Quit Software.

application for registration as a foreign limited partnership is filed. The secretary of state shall give information concerning the identity of the user to anyone who inquires concerning it.

"A limited partnership in existence prior to April 4, 1985, shall file an application, report, or amendment pursuant to division (B) or (C) of this section not later than April 30, 1986, to report the name of the Ohio county in which its certificate of limited partnership or application for registration as a foreign limited partnership is filed. A report shall be made within thirty days after the date of the first use of the fictitious name."

#### CROSS REFERENCES

Certificate with county recorder as notice only of limited partnership, 1782.15

Corporate names; reservation and filing, 1701.05

Names of limited partnerships, 1782.02

Partnership with fictitious name to file certificate with county recorder; recorder to keep register, 1777.02, 1777.05

#### OHIO ADMINISTRATIVE CODE REFERENCES

Unincorporated auction company shall register name with secretary of state, OAC 1301:4-3-05

Press Alt-H for Help or .SO to End Session or Alt-Q to Quit Software.

#### LIBRARY REFERENCES

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition @ @ 134, 138.

OJur 3d: 1, Actions @ 131; 13, Business Relationships @ 1052; 70, Names @ 5; 38, Trade Regulation @ 65, 68, 102, 111

Am Jur 2d: 57, Name @ 24 et seq.; 74, Trademarks and Tradenames @ 69 to 83

Damages recoverable for wrongful registration of trademark. 26 ALR2d 1184

Ameritel, Inc., Application for an Initial  
Cellular Authorization to Construct for the  
Daytona Beach, Florida MSA (FCC Form 401),  
File No. 22500-CL-P-146-A-86,  
Exhibit 1, Applicant's Ownership and  
Communications Interests

A P P L I C A N T ' S   O W N E R S H I P   A N D  
C O M M U N I C A T I O N S   I N T E R E S T S

Applicant is an Ohio corporation with its principal place of business at 1600 South Dixie Highway, Boca Raton, Florida 33432. The names, addresses, principal businesses, and percentages of voting stock held by Applicant's shareholders are as follows:

<u>Name &amp; Address</u>	<u>Percentage of Stock</u>	<u>Principal Business</u>
Gene A. Folden 1600 South Dixie Highway Boca Raton, FL 33432	12.25	Radio Common Carrier
Thomas E. Rawlings 790 Kirkwall Copley, OH 44321	12.25	Attorney
Richard D. Rowley 580 Tote Road Austinburg, OH 44010	12.25	Radio Broadcasting; Radio Common Carrier
David C. Rowley 102 C. Pomona Drive Geneva, OH 44041	12.25	Radio Broadcasting; Radio Common Carrier
Michael L. Robinson 277 South Broadway Akron, OH 44308-1449	25	Attorney
Howard E. Mentzer 277 South Broadway Akron, OH 44308-1449	10	Attorney
Patrick J. Hart 277 South Broadway Akron, OH 44308-1449	10	Attorney
Richard F. Battagline 500 First National Tower Akron, OH 44308-1471	6	Attorney

All of the stockholders of Applicant are United States citizens.

The following lists the businesses in which Applicant's stockholders own at least a 5% interest. These businesses are either subsidiaries or affiliates of Applicant under Section 22.12(a)(1) of the Commission's Rules.

<u>Name</u>	<u>Principal Business</u>
Metro-Page of Florida	Radio common carrier
Metrotec of Arizona, Inc.	Radio common carrier
Radio Enterprises of Kentucky, Inc.	Radio common carrier
Selective Paging Corporation	Radio common carrier
Metro-Page of Columbus, Inc.	Radio common carrier

In addition, Applicant is interested, directly or indirectly, in the radio stations listed below:

<u>Licensee</u>	<u>Call Sign &amp; Service</u>	<u>Location</u>
Metro-Page of Florida	KNKC651; PLMS KOR398; PLMS KOR710; PLMS KOR711; PLMS KOR709; PLMS KOR706; PLMS KOR707; PLMS KOR708; PLMS	Boca Raton, FL Tampa, FL Ft. Lauderdale, FL Jacksonville, FL Orlando, FL Miami, FL W. Palm Beach, FL Hollywood, FL
Metrotec of Arizona, Inc.	KKB617; PLMS	Phoenix, AZ
Radio Enterprises of Ohio, Inc.	WFUN (AM) WREO-FM KUS280; PLMS KPA317; PLMS KOR889; PLMS KOR962; PLMS KNKD925; PLMS KOR888; PLMS	Ashtabula, OH Ashtabula, OH Northeast, OH Tucson, AZ Erie, PA Cleveland, OH Phoenix, AZ Ashtabula, OH
Selective Paging Corporation	KEK276; PLMS	Buffalo, NY
Radio Enterprises of Kentucky, Inc.	WFKY (AM) WKYW-FM WXR901; PLMS  KNKI508; PLMS	Frankfort, KY Frankfort, KY Louisville/ Lexington, KY Louisville, KY
Metro-Page of Columbus, Inc.	KWU243; PLMS	Columbus, OH

In addition, Gene A. Folden, Thomas E. Rawlings, Richard D. Rowley and David C. Rowley are officers and shareholders of Metrotel, Inc. ("Metrotel"), Metrotel has an 11% partnership interest in Akron Cellular Telephone Company, the non-wireline cellular licensee for the Akron, Ohio MSA. Metrotel has a 7.7% partnership interest in Youngstown Cellular Telephone Company, the non-wireline cellular licensee in Canton, Ohio.

#### Pending Applications

On February 6, 1986, Applicant filed applications for authorization to construct cellular systems in the following markets:

Trenton, New Jersey MSA  
Santa Rosa-Petaluma, California MSA  
Santa Barbara-Santa Maria-Lompoc, California MSA  
Salinas-Seaside-Monterrey, California MSA  
Pensacola, Florida MSA  
Erie, Pennsylvania MSA  
Atlantic City, New Jersey MSA

Applicant has no interest, direct or indirect, in any other pending application proposing facilities to be licensed under Part 22 of the Commission's Rules within 40 miles of the cellular system proposed hereby.

#### Ownership in Competing Applicants and Agreements to Settle

None of Applicant's shareholders hold any direct ownership interest in any other cellular application that would be considered mutually exclusive with this application. Furthermore, to the best of their knowledge, none of Applicant's shareholders hold a five percent or greater interest in any publicly-traded corporation which may be filing a mutually

exclusive cellular application. Accordingly, Applicant complies with the ownership restrictions contained in Section 22.921(b) of the Commission's Rules, 47 C.F.R. § 22.921(b).

Applicant recognizes that post-filing settlements with other mutually exclusive applicants may be an appropriate way of fostering the Commission's objective of providing high quality cellular service as quickly as possible. Accordingly, Applicant may enter into such agreements after filing. Applicant has not, however, entered into any pre-filing settlement agreements with other applicants.

Exhibit 3

Ameritel, Inc., Consent to Assignment of License  
from Ameritel, Inc. (Transferor) to Crowley  
Cellular Telecommunications (Daytona), L.P. (Transferee)  
(FCC Form 401), File No. 00120-CL-AL-1-88, Attachment 1  
to Exhibit 2, Declaration of Thomas Rawlings, October 21, 1987

ATTACHMENT 1  
TO EXHIBIT 2

DECLARATION

I, Thomas Rawlings, on behalf of Ameritel, Inc., do hereby declare, under penalty of perjury under the laws of the United States, that the attached "Statement of Ameritel, Inc." is true and correct to the best of my knowledge, information and belief.

Executed this 21 day of October, 1987.

Thomas Rawlings  
Thomas Rawlings  
Secretary  
Ameritel, Inc.

**STATEMENT OF  
AMERITEL, INC.**

Ameritel, Inc. ("Ameritel") filed its application (File No. 22500-CL-P-146-A-86) with the bona fide intention of providing cellular service to the public on the Block A frequencies in the Daytona Beach, Florida MSA. Changed circumstances have now caused Ameritel to seek to divest its interest.

Ameritel's Daytona Beach application gave rise to considerable litigation before the FCC. This litigation had the effect of substantially delaying the issuance of the Daytona Beach permit to Ameritel, and dramatically increasing the costs of securing the permit for constructing the Block A system.

In view of these changed circumstances, Ameritel desires to assign its interest in the Daytona Beach Block A system to a company with substantial cellular experience, Crowley Cellular Telecommunications (Daytona), L.P. ("CCT"). CCT desires to acquire Ameritel's interest on terms which the Ameritel principals have voted to accept. This decision by Ameritel has arisen out of the changes in circumstances relating to the cost and timing of Ameritel's entry into the Daytona Beach market, and does not alter the fact that the original Ameritel application was filed in good faith and with the bona fide intention of providing a beneficial public service.

## **Certificate of Service**

I, Jamie C. Whitney, a secretary in the law firm of Gurman, Kurtis, Blask & Freedman, Chartered, hereby certify that I have sent by First Class United States mail, postage prepaid, copies of the foregoing to the following:

\*Honorable Joseph Chachkin  
Federal Communications Commission  
2000 L Street, N.W.  
Washington, D.C. 20554

\*Joseph Weber, Esq.  
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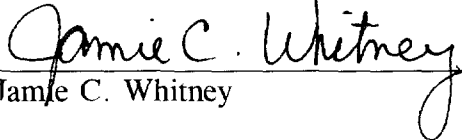
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\*By hand

  
Jamie C. Whitney

February 15, 1995